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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/660,811 | 09/13/2000 | Mark S. Knighton | 004956.P003 | 8160 |
| 7590 | 02/25/2004 | | EXAMINER | |
| Blakely Sokoloff Taylor & Zafman LLP Seventh Floor 12400 Wilshire Boulevard Los Angeles, CA 90025 | | | BUGG, GEORGE A | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2613 | 12 |

DATE MAILED: 02/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 09/660,811 | KNIGHTON ET AL. | |
| | Examiner | Art Unit | |
| | George A Bugg | 2613 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 01 December 2003.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-30 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 12/01/03 have been fully considered but they are not persuasive. The Examiner maintains his rejection for the reasons given below.
2. Applicant's argues that the Pito reference does not teach a digitizer and orientation fixture without a predefined relative position to one another. However, Applicants Specification discloses, on page 5, line 19 through page 6, line 14, that the digitizer may sweep an area looking for indicia or some physically observable structure that permits the digitizer to identify and acquire the orientation fixture. The Examiner must again rely on the Pito reference, column 5, lines 33-48. While this passage does disclose a position of scanner at some point on a circle whose circle coincides with the turntable, that point could be anywhere on the circle. Applicant's argues that there is no predefined position between the orientation fixture and the digitizer, yet his invention looks for a fixed point on the orientation fixture in order to establish proper operation. How does this differ from Pito? Using a marking or indicia, or a localized energy source to properly identify the fixture and its orientation, relative to the digitizer, is defining a point in space and therefore does establish a "defined" position between the two.
3. Applicant further argues that the orientation fixture and the digitizer are independent units, as well as being integrally connected as a single unit. It is the position of the Examiner that these embodiments are not patentably distinct from one

another, rather they are obvious variations of the invention. Furthermore, were they to be patentably distinct embodiments, restriction of the claims would be proper.

4. With regard to the arguments that the Murphy reference do not disclose Applicant's invention, with regard to claims 20 and 23, Murphy clearly teaches that information is sent and received at remote locations, which can be considered to be remote nodes in a distributive network. Furthermore, locking the image capture system, or locking the data that the camera is storing, both serve the same purpose, which is prevent images from being sent to an unauthorized site. The Examiner still believes that these limitations are synonymous.

5. With regard to the arguments pertaining to the Vellacott reference, the Examiner would like to point out what is disclosed by Vellacott on page 1 of the reference. Paragraph one states that cameras can be interfaced to digital networks via PC's or separate dedicated control units, i.e. a host computer. While the passage cited by Applicant does state that, in this particular scenario that a host PC may be impractical or not cost effective, nonetheless, it does teach that it is known in the art. Furthermore, it is also well known that many LAN and WAN systems have a host terminal. The rejection is maintained.

6. With regard to Applicant's arguments pertaining to claims 27 and 29, it is the contention of the Examiner that the rescan process taught by Pito does in fact improve image quality because additional data of the image is collected.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1-4, 8-11, 12-15, 18, 19 and 27-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 5,831,621 to Pito.

1. As for claims 1, 13, and 27, Pito discloses, in column 5, lines 24-48, and in Figure 1, a camera or scanner (Element 10) which scans three dimensional object data. The scanner shown in Figure 1 is equivalent to the claimed digitizer, since they perform the same function. The orientation fixture, as claimed, is also shown in Figure 1, as Element 14. As the turntable rotates, the orientation of the object is changed from a first position to a second position, revealing a first aspect, or view, of the object at a first orientation, and revealing a second aspect, or view, of the object at a second orientation, relative to the scanner, or digitizer. Pito further discloses computer control and software, which is utilized to determine the "Next Best View". In other words, the software performs mathematic manipulation on the scanned images of the object, to determine what area of the object to look at next, and thereby automatically repositions

the turntable, to obtain the desired object orientation. **Furthermore, as stated in column 5, lines 33-35, ranges, or distances, are measured using triangulation techniques.** As is known in the art, triangulation techniques are used to calculate the distance between two points, in this case, the distance between the orientation fixture and the digitizer, when distance information is not known, or predefined. It is the interpretation of the Examiner, that Figure 1, discussed in column 5, shows the digitizer and orientation fixture, as independent units, that can be connected as one, through the use of software and computer control. While the reference does not specifically teach independent units, or integrally coupled as a single unit, as claimed in claims 1 and 13 respectfully, it would have been obvious to one of ordinary skill in the art to combine independent units into a single unit, for the purpose of creating a portable system, as well as reducing the overall size of the system. It should be further noted, that Applicant describes physically independent units, on page 5 of the specification, as two devices with no physical coupling. It stands to reason then, that two units coupled together, either electrically, or through a host computer are integrally coupled as one unit. However, Applicant's Figure 3, shows the digitizer and the orientation fixture integrally connected, yet each piece is separately labeled as elements 270 and 280. These claim limitations are obvious for the reasons stated above, and are a matter of semantics. Additionally, claims 27 and 29 recite a data analyzer for identifying points of interest in the data collected, wherein the digitizer and the orientation fixture automatically rescan a portion of the object, corresponding to the point of interest, whereby the three dimensional

model of a portion of the object is adjusted based on the rescan. In column 10, lines 40-65, Pito discloses indices (i) which correspond to scanned images, (i.e. points of interest) and that multiple scans of the object take place, based upon the number of indices to be checked. Pito further teaches, upon rescan, the three dimensional model of the object is updated. It should also be noted, that column 10, lines 65-67 disclose that poorly sampled surfaces can be resampled, or scanned, with higher accuracy. In other words, areas can be rescanned to improve image quality.

2. Regarding claim 2, in column 1, lines 23-33, Pito discloses measuring the distance between the range camera, or digitizer, and the surface of an object, which is equivalent to determining the position of the orientation fixture, relative to the digitizer, since the object to be scanned is sitting atop the orientation fixture, or turntable.

Furthermore, as stated in column 5, lines 33-35, ranges, or distances, are measured using triangulation techniques. As is known in the art, triangulation techniques are used to calculate the distance between two points, in this case, the distance between the orientation fixture and the digitizer, when distance information is not known, or predefined.

3. As for claims 3 and 14, column 5, lines 57-67, Pito discloses a breakdown angle of a scanner, which is determined from the calibration of the scanner, or digitizer. While Pito does not specifically claim automatic calibration, calibration is taught. In re Venner, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958) (Appellant argued that claims to a permanent mold casting apparatus for molding trunk pistons were allowable over the prior art because the claimed invention combined "old permanent-mold

structures together with a timer and solenoid which automatically actuates the known pressure valve system to release the inner core after a predetermined time has elapsed." The court held that broadly providing an automatic or mechanical means to replace a manual activity which accomplished the same result is not sufficient to distinguish over the prior art.).

4. With regard to claims 4 and 15, column 10, lines 1-9, teach the use of a computer and software, or host, for modeling a three dimensional representation of an object.

5. As for claims 8, 9, and 18, since Figure 1 shows the orientation fixture, and the digitizer as separate entities, it is inherently taught that each would have their own self-contained power source. Furthermore, self-contained power sources make systems portable, which is not patentably significant. *In re Lindberg*, 194 F.2d 732, 93 USPQ 23 (CCPA 1952) (Fact that a claimed device is portable or movable is not sufficient by itself to patentably distinguish over an otherwise old device unless there are new or unexpected results.)

6. With regard to claims 10 and 11, establishing a fixed point in space for the purpose of establishing a position between a scanner and an orientation fixture is well known in the art of imaging. (Official Notice)

7. As for claims 12 and 19, in column 5, lines 23-32, Pito discloses the orientation fixture, Element 14 of Figure 1, as a turntable.

8. With regard to claim 28, in column 11, lines 1-67, Pito discloses control parameters, which can effect the resolution, field of view, focus, magnification, and size

of an image, during scan or rescan, as well as resampling poorly sampled surfaces, to achieve higher accuracy (i.e. higher resolution). Since the appearance of an image may be altered through the use of control parameters, the method of capturing the images is also different, because the number of scans would vary, depending on the detail to be imaged.

9. Claims 20-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 5,799,082 to Murphy et al.

10. As for claims 20 and 23, in column 15, lines 6-31, Murphy discloses freezing or locking image data, and further preventing transmission to another person or facility (i.e. remotely), except those who are authorized, and implement the proper request for downloading the information. Furthermore, the fact that information can be transmitted back and forth, is itself a teaching of a distributive network. While the Murphy reference may not specifically disclose unlocking and image-capturing system, it is the contention of the Examiner that the frame lock mechanism, which prevents image data from being downloaded, serves the same purpose. Therefore, it would have been obvious to one of ordinary skill in the art to employ the locking mechanism of Murphy, for the purpose of maintaining an uncompromised network.

11. With regard to claims 21 and 22, column 13, lines 53-67, disclose a camera system, which determines position information (i.e. location coordinates, angular orientation coordinates, and distance to the object) or three dimensional image data. Claim 16 of Murphy discloses an image-capturing device, which can be reprogrammed remotely.

12. As for claims 24-26, Murphy discloses, in column 13 lines 30-52, and column 15, lines 19-47, encrypting algorithms, and decryption using position parameters of the object, as well as storage limitations and uploading encrypted image data.

13. Claims 5-7, 16-17, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 5,831,621 to Pito, in view of International Publication No. WO 96/02106 to Vellacott.

14. As for claims 5-7, 16-17, and 30, Pito discloses, in column 5, lines 24-48, and in Figure 1, a camera or scanner (Element 10) which scans three dimensional object data. The scanner shown in Figure 1 is equivalent to the claimed digitizer, since they perform the same function. The orientation fixture, as claimed, is also shown in Figure 1, as Element 14. As the turntable rotates, the orientation of the object is changed from a first position to a second position, revealing a first aspect, or view, of the object at a first orientation, and revealing a second aspect, or view, of the object at a second orientation, relative to the scanner, or digitizer. Pito further discloses computer control and software, which is utilized to determine the "Next Best View". In other words, the software performs mathematic manipulation on the scanned images of the object, to determine what area of the object to look at next, and thereby automatically repositions the turntable, to obtain the desired object orientation. **Furthermore, as stated in column 5, lines 33-35, ranges, or distances, are measured using triangulation techniques. As is known in the art, triangulation techniques are used to calculate the distance between two points, in this case, the distance between the orientation fixture and the digitizer, when distance information is not known, or predefined.**

It is the interpretation of the Examiner, that Figure 1, discussed in column 5, shows the digitizer and orientation fixture, as independent units. Column 10, lines 1-9, teach the use of a computer and software, or host, for modeling a three dimensional representation of an object, while Pito fails to teach communicating over a wireless link, as well as transmitting data remotely, page 1 of the Vellacott reference discloses the use of LAN systems, wireless communications, as well as remote transmission, and that host PC's are well known in the art. It would have been obvious to one of ordinary skill in the art to combine the teachings of Vellacott and Pito, for the purpose of creating a more robust three-dimensional scanning system.

Conclusion

15. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George A Bugg whose telephone number is (703) 305-2329. The examiner can normally be reached on Monday-Thursday 7:30 - 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S Kelley can be reached on (703) 305-4856. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

George A Bugg
Examiner
Art Unit 2613

GAB

February 20, 2004



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